

## Federal Communications Commission

## § 76.982

(b) Leased access programmers and other interested parties may file comments with the Commission in response to the Leased Access Annual Reports by May 15th.

[73 FR 10692, Feb. 28, 2008]

EFFECTIVE DATE NOTE: At 73 FR 10692, Feb. 28, 2008, § 76.978 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 76.980 Charges for customer changes.

(a) This section shall govern charges for any changes in service tiers or equipment provided to the subscriber that are initiated at the request of a subscriber after initial service installation.

(b) The charge for customer changes in service tiers effected solely by coded entry on a computer terminal or by other similarly simple methods shall be a nominal amount, not exceeding actual costs, as defined in paragraph (c) of this section.

(c) The charge for customers changes in service tiers or equipment that involve more than coded entry on a computer or other similarly simple method shall be based on actual cost. The actual cost charge shall be either the HSC, as defined in Section 76.923 of the rules, multiplied by the number of persons hours needed to implement the change, or the HSC multiplied by the average number of persons hours involved in implementing customer changes.

(d) A cable operator may establish a higher charge for changes effected solely by coded entry on a computer terminal or by other similarly simple methods, subject to approval by the franchising authority, for a subscriber changing service tiers more than two times in a twelve month period, except for such changes ordered in response to a change in price or channel line-up.

(e) Downgrade charges that are the same as, or lower than, upgrade charges are evidence of the reasonableness of such downgrade charges.

(f) For 30 days after notice of retiering or rate increases, a customer may obtain changes in service tiers at no additional charge.

NOTE 1 TO § 76.980: Cable operators must also notify subscribers of potential charges for customer service changes, as provided in § 76.1604.

[58 FR 29753, May 21, 1993, as amended at 65 FR 53617, Sept. 5, 2000]

### § 76.981 Negative option billing.

(a) A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. A subscriber's failure to refuse a cable operator's proposal to provide such service or equipment is not an affirmative request for service or equipment. A subscriber's affirmative request for service or equipment may be made orally or in writing.

(b) The requirements of paragraph (a) of this section shall not preclude the adjustment of rates to reflect inflation, cost of living and other external costs, the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier or service, the restructuring or division of existing tiers of service, or the adjustment of rates as a result of the addition, deletion or substitution of channels pursuant to § 76.922, provided that such changes do not constitute a fundamental change in the nature of an existing service or tier of service and are otherwise consistent with applicable regulations.

(c) State and local governments may not enforce state and local consumer protection laws that conflict with or undermine paragraph (a) or (b) of this section or any other sections of this Subpart that were established pursuant to Section 3 of the 1992 Cable Act, 47 U.S.C. 543.

[59 FR 62625, Dec. 6, 1994]

### § 76.982 Continuation of rate agreements.

During the term of an agreement executed before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, the franchising authority may regulate basic cable rates without following section 623 of the 1992 Cable Act or §§ 76.910